IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

WP(C).No. 23680 of 2007(R)

PETITIONER:

ANDU BEARY, S/O. MOHAMMED BEARY,
RESIDING AT MANDEKAPU,KUDALAMERKALA VILLAGE,
KASARGOD DISTRICT.

BY ADV. SRI.SURESH KUMAR KODOTH

RESPONDENTS:

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1. THE ADDITIONAL TAHSILDAR,
TALUK OFFICE,KASARAGOD.

2. THE REVENUE DIVISIONAL OFFICER,
KASARAGOD AT KANHANGAD.

3. THE DISTRICT COLLECTOR, CIVIL STATION,
VIDYA NAGAR, KASARGOD.

4. STATE OF KERALA REPRESENTED BY THE
SECRETARY TO THE GOVERNMENT,
DEPARTMENT OF REVENUE, SECRETARIAT,
THIRUVANANTHAPURAM.

BY GOVT. PLEADER SRI.I.V.PRAMOD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03/08/2007, ALONG WITH WPC NO. 19731 OF 2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

WP(C) Nos.23680 & 19731 OF 2007

Dated this the 3rd day of August, 2007

J U D G M E N T

The petitioners in these two writ petitions are challenging the orders passed by the Revenue Divisional Officer, Kanhangad, in appeals filed by the petitioners under the Kerala Land Conservancy Act. Since the very reading of these orders would make it abundantly clear that both orders are patently unsustainable, I am extracting both the orders:-

> "Please see the reference. In this regard. I am to inform that your appeal cannot be taken on file as the order appealed against has been passed as part of a statewide Special Drive to evict the unauthorised occupation of Government land and therefore appeal is hereby rejected." (Ext.P6 in W.P(C) No.23680 of 2007)

> "Please see the reference cited. Your appeal is rejected without taking on file, as the order appealed against has been passed as part of a state wide special drive to remove the unauthorised occupation of government land."(Ext.P7 in W.P(C) No.19731 of 2007)

When an aggrieved person files appeal under the provisions of the Kerala Land Conservancy Act, the appellate authority namely, the Revenue Divisional Officer has a duty to consider the contentions of the appellants on merits, taking into account the evidence produced by the aggrieved persons. Being a quasi judicial authority, the Revenue Divisional Officer cannot simply reject the appeals on the ground that the order appealed against has been passed as part of the statewide special drive evicting the unauthorised occupation of the Government land. Therefore, the impugned orders as above are hereby quashed. There would be a direction to the Revenue Divisional Officer to consider the appeals filed by the petitioners afresh and pass a speaking order, entering findings on each and every contention of the petitioners in the appeals. Till orders are passed in the appeals, the petitioners

shall not be evicted from the lands in question.

The writ petitions are allowed as above.

Sd/-
S. SIRI JAGAN,
Judge

Mbs/

-True Copy-

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED:01-06-2007